

REMARKS

Claims 35-37, 39-47, and 50 were pending in the application. Claim 35 has been amended. Claim 36 has been canceled. No new matter has been added.

Importantly, the amendments cancelations made herein should not be construed to be an acquiescence to any of the claim rejections. Rather, these actions are being made solely to expedite the prosecution of the above-identified application. The Applicants expressly reserve the right to further prosecute the same or similar claims in subsequent patent applications claiming the benefit of priority to the instant application (35 USC § 120).

Favorable consideration is respectfully requested in view of the foregoing amendment and following remarks.

RESPONSE TO CLAIM REJECTIONS BASED ON 35 U.S.C. § 102(b)

Claims 35-37, 39-41, and 43-47 stand rejected under 35 U.S.C. § 102(b) based on the Office's contention that the claims are anticipated by WO 02/04544 to Barnette et al. (*Barnette*). The Applicants respectfully traverse.

The Applicants respectfully remind the Office that in order to anticipate a claim, a single source must contain all of the elements of the claim. *See Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986); *Atlas Powder Co. v. E.I. duPont De Nemours & Co.*, 750 F.2d 1569, 1574, 224 U.S.P.Q. 409, 411 (Fed. Cir. 1984); *In re Marshall*, 578 F.2d 301, 304, 198 U.S.P.Q. 344, 346 (C.C.P.A. 1978). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. *See Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984).

Independent claim 35 has been amended to further limit its scope. In view of this amendment, the Applicants believe that the Office has not shown how the applied reference teaches each and every element of claim 35, or the claims dependent therefrom. The Office Action merely says that Barnette's generic formulae I, II, and III "tell the story" (04/02/10 Office Action at page 4).

Accordingly, the Applicants respectfully request reconsideration and withdrawal of the novelty rejection of claims 35-37, 39-41, and 43-47 under 35 U.S.C. § 102(b) based on Barnette.

RESPONSE TO CLAIM REJECTIONS BASED ON 35 U.S.C. § 103(a)

Claims 35-37, 39-47, and 50 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Barnette. The Applicant respectfully traverses.

To establish a *prima facie* case of obviousness, a number of criteria must be met. For example, all of the limitations of a rejected claim must be taught or suggested in the prior art reference relied upon by the Office; or they must be among the variations that would have been “obvious to try” to one of ordinary skill in the relevant art in light of the cited reference. Moreover, one of ordinary skill in the relevant art must have a reasonable expectation of success in light of the cited reference. Importantly, the reasonable expectation of success must be found in the prior art, and may not be based on the Applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q. 2d 1438 (Fed. Cir. 1991); *see* MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.

The Applicant contends that the Office has not shown how the applied reference teaches or renders “obvious to try” all of the limitations of Applicants’ amended claims. Furthermore, the Applicant wishes to point out that the Office’s contention that “the –OCH₂CH₂O– moiety meets the broad limitation of –C(O)–” (04/02/10 Office Action, at page 6) is incorrect; therefore, the Office’s contention that “Barnette teaches the limitations of claim 35 and renders obvious the L2 Moiety of claims 38 and 42” (04/02/10 Office Action, at page 6) is unfounded.

Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection for obviousness of claims 35-37, 39-47, and 50 under 35 U.S.C. § 103(a) based on Barnette.

FEES

The Applicants believe that they have provided for all required fees in connection with the filing of this Response. Nevertheless, the Commissioner is hereby authorized to charge any additional fees due in connection with the filing of this Response to our Deposit Account, No. **06-1448**, Reference **GPT-032.01**.

CONCLUSION

The Applicants believe that the pending claims are in condition for allowance. If a telephone conversation with Applicants' Agent would expedite prosecution of the above-identified application, the Examiner is urged to contact the undersigned.

Respectfully submitted,

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